

## **Remarks**

### **Status of the Claims**

Claims 1-4, 6-24, and 26-28 were pending in the present application. Applicants hereby cancel claims 2, 9, 11-24, 26, and 28 without prejudice to Applicants' right to pursue their subject matter in this and related applications. Applicants have amended claims 1, 3, 4, 6-8, 10, and 27. Applicants have added new claims 29 and 30. Accordingly, upon entry of these amendments, claims 1, 3, 4, 6-8, 10, 27, 29, and 30 will be pending and presented for consideration.

### **Claim amendments**

Support for the claim amendments can be found in the specification, including the claims, as originally filed. Specifically, support for the amendment to claim 1 is found in the specification at least on page 3, lines 18-27; on page 5, lines 21 and 22; on page 8, lines 27-29; from page 14, line 28, to page 15, line 7; from page 15, line 22, to page 16, line 5; and on page 16, lines 17-19. Support for the amendment to claim 3 is found at least on page 3, lines 18-22; from page 14, line 28, to page 15, line 7; and in FIG. 6. Claim 4 has been rewritten in independent form, including all of the limitations of base claim 1. Support for the amendment to claim 6 is found at least on page 7, lines 21-23. Support for the amendment to claim 7 is found at least on page 3, lines 28 and 29; and from page 15, line 22, to page 16, line 5. Support for the amendments to claims 8 and 10 is found at least from page 3, line 28, to page 4, line 5; and from page 15, line 22, to page 16, line 5. Support for the amendment to claim 27 is found at least on page 12, lines 20-28. Support for new claim 29 is found at least from page 14, line 28, to page 15, line 5; on page 15, lines 22-29; and in FIG. 6. Support for new claim 30 is found at least on page 15, lines 24-28.

Applicants submit that these amendments introduce no new matter.

Specification

The Office action objected to the disclosure for allegedly failing to comply with 37 C.F.R. § 1.821(d). Applicants have amended the specification to include sequence identifiers, in accordance with 37 C.F.R. § 1.821(d). Specifically, in the Brief Description of the Drawings, Applicants have amended the descriptions of FIG. 1 and FIG. 2 to include sequence identifiers. Applicants have also amended FIG. 6 to include sequence identifiers adjacent to their respective nucleic acid sequences. Based on the foregoing, Applicants respectfully request that the objection to the disclosure under 37 C.F.R. § 1.821(d) be reconsidered and withdrawn.

Applicants submit that these amendments introduce no new matter.

Claim Rejections Under 35 U.S.C. § 112, second paragraph

Claims 7, 8, and 13 were rejected under 35 U.S.C. § 112, second paragraph for allegedly lacking antecedent basis. Applicants have cancelled claim 13. Therefore, Applicants respectfully submit that the rejection of claim 13 under 35 U.S.C. § 112, second paragraph is moot.

Claim 7 has been amended to recite “said non-Ig protein” and claim 8 has been amended to depend from claim 7. Applicants submit that, as amended, claims 7 and 8 comport fully with 35 U.S.C. § 112, second paragraph. Accordingly, Applicants respectfully request that the rejection of claims 7 and 8 under 35 U.S.C. § 112, second paragraph, be reconsidered and withdrawn.

Claim Rejections Under 35 U.S.C. § 102(a)

Claims 1, 3, and 6-10 were rejected under 35 U.S.C. § 102(a) as allegedly anticipated by International Publication No. WO/9743316 to Junghans (“Junghans”), having an international publication date of November 20, 1997. Applicants have cancelled claim 9. Therefore, Applicants respectfully submit that the rejection of claim 9 under 35 U.S.C. § 102(a) is moot. Applicants respectfully traverse the rejection of claims 1, 3, 6-8, and 10.

Applicants enclose with this paper a Declaration of Stephen Gillies and Kin-Ming Lo Under 37 C.F.R. § 1.131 executed by the inventors of the subject matter of amended claims 1, 3, 6-8, and 10. Applicants submit that this Declaration effectively removes Junghans as a reference for use under 35 U.S.C. § 102(a) against the invention of claims 1, 3, 6-8, and 10. The Declaration states that the named inventors conceived of the subject matter of claims 1, 3, 6-8, and 10, prior to November 20, 1997. In addition, the Declaration provides evidence that the inventors worked diligently to reduce to practice the invention of claims 1, 3, 6-8, and 10 from prior to November 20, 1997. Applicants therefore submit that Junghans is not available as prior art under 35 U.S.C. § 102(a) and respectfully request that the rejection of claims 1, 3, 6-8, and 10 be reconsidered and withdrawn.

Claim Rejections Under 35 U.S.C. § 103(a)

Junghans and Xu

Claim 2 is rejected under 35 U.S.C. § 103(a) over Junghans in view of Xu *et al.*, (1994), The Journal of Biological Chemistry, vol. 269, pp. 3469-3474 (“Xu”). Applicants have cancelled claim 2. Therefore, Applicants respectfully submit that the rejection of claim 2 under 35 U.S.C. § 103(a) is moot.

Junghans and Winter

Claim 3 is rejected under 35 U.S.C. § 103(a) over Junghans, and in further view of U.S. Patent No. 5,624,821 to Winter *et al.* (“Winter”). For the reasons provided above, Applicants submit that Junghans is not available as prior art for use under 35 U.S.C. §§ 102(a) and 103(a) in combination with Winter to reject amended claim 3. Accordingly, Applicants respectfully request that the rejection of claim 3 under 35 U.S.C. § 103(a) be reconsidered and withdrawn.

Junghans

Claims 11-13 and 28 are rejected under 35 U.S.C. § 103(a) over Junghans. Applicants have cancelled claims 11-13 and 28. Therefore, Applicants respectfully submit that the rejection of claims 11-13 and 28 under 35 U.S.C. § 103(a) is moot.

Junghans, Xu, and Harvill

Claim 27 is rejected under 35 U.S.C. § 103(a) over Junghans and Xu, and further in view of Harvill *et al.*, Immunotechnology vol. 1, pp. 95-105, 1995 ("Harvill"). Applicants respectfully traverse this rejection.

Applicants enclose with this paper a Declaration of Stephen Gillies, Kin-Ming Lo, Yan Lan, and John Wesolowski Under 37 C.F.R. § 1.131. Applicants submit that this Declaration effectively removes Junghans as a reference for use against the claimed invention. The Declaration states that the named inventors conceived of and reduced to practice the subject matter of claim 27, prior to November 20, 1997. Accordingly, Applicants submit that Junghans is not available as prior art for use under 35 U.S.C. §§ 102(a) and 103(a) in combination with Xu and Harvill. Accordingly, Applicants respectfully request that the rejection of claim 27 under 35 U.S.C. § 103(a) be reconsidered and withdrawn.

**CONCLUSION**

Claims 1, 3, 4, 6-8, 10, 27, 29, and 30 are pending and believed to be in condition for allowance. Examiner Kapust is invited to telephone the undersigned to discuss any remaining issues.

Respectfully submitted,



---

Brian A. Fairchild, Ph.D.  
Attorney for Applicant(s)  
Testa, Hurwitz, & Thibault, LLP  
High Street Tower  
125 High Street  
Boston, Massachusetts 02110

Date: January 14, 2004  
Reg. No. 48,645

Tel. No.: (617) 248-7697  
Fax No.: (617) 248-7970